

REMARKS

Claims 1-23, 130 and 131 are pending. In the Office Action mailed April 11, 2006, the Examiner described allowable subject matter within the claim set, rejected Claims 1-3, 5-6, 8-10, 13-14, 21 and 23 under 35 U.S.C. §102(b)/103(a) in light of U.S. Patent No. 4,088,756 (the Voorhees patent), and rejected Claims 1-23, 130 and 131 under nonstatutory obviousness-type double patenting. Each notation is addressed below.

I. Allowable Subject Matter

The Examiner stated, “the claimed invention (i.e. a method of treating psoriasis using a specific compound of benzodiazepine compound (elected species shown above) is allowable because the invention has not been taught or obvious over the prior art of the record. US4088756 teaches a psoriasis treatment using diazepam(see claim 1 and col.12, lines 60 to col. 13, lines 11), however, it fails to teach the claimed compound (elected species, Bz-423). Since the elected species is patentably distinct and independent, the claims 130 and 131 is allowable. Thus, the subject matter recited in Claims 130 and 131 would be allowable if rewritten to overcome the rejections by incorporating claims 130 and 131 into claim 1 to include all of the limitations of the base claim and any intervening claims.” Office Action, pages 2-3. Per suggestion of the Examiner, the Applicant now amends Claim 1 to incorporate the aspects of Claims 130 and 131, and cancels Claims 2-20 and 130-131. The Applicant requests Claim 1 be passed into allowance.

II. Rejection of Claims 1-3, 5-6, 8-10, 13-14, 21 and 23 under 35 U.S.C. §102(b)/103(a)

The pending 35 U.S.C. §102/103 rejections are moot in view of the amendments described above.

III. Rejection of Claims 1-3, 5-6, 8-10, 13-14, 21, 23, 130 and 131 under Double Patenting

Claims 1-3, 5-6, 8-10, 13-14, 21, 23, 130 and 131 are rejected “on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims of copending Application No. 09/767,283 and 10/886,450. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims found in these applications

relates to a method of treating psoriasis using benzodiazepine compound. This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented." Office Action, page 5.

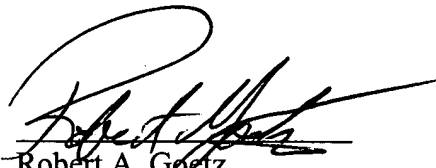
The Applicant now files terminal disclaimers to overcome this rejection.

CONCLUSION

Should the Examiner believe that a telephone interview would aid in the prosecution of this application Applicants encourage the Examiner to call the undersigned collect at (608) 218-6900.

Dated: _____

5/11/06


Robert A. Goetz
Registration No. 55,210

MEDLEN & CARROLL, LLP
101 Howard Street, Suite 350
San Francisco, California 94105
608.218.6900